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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re EVA H., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

EVA H.,

Defendant and Appellant.

F044075

(Super. Ct. No. JW099087-02)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Kern County. Charles B. Pfister, Judge.

Michael A. Douglass, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Jo Graves, Assistant Attorney General, John G. McLean and Stan Cross, Deputy Attorneys General, for Plaintiff and Respondent.

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* Before Wiseman, Acting P.J., Cornell, J., and Gomes, J.

On December 27, 2002, a petition was filed pursuant to Welfare and Institutions Code section 602 alleging that appellant Eva H. committed three counts of battery (Pen. Code, § 243, subd. (a)). On January 10, 2003, she admitted one battery count. The two remaining counts were dismissed. The juvenile court found Eva to be a ward of the court, declared her maximum term of confinement to be six months, and placed her on probation.

On May 19, 2003, a petition was filed alleging that Eva committed one misdemeanor count of battery against her mother (Pen. Code, § 243, subd. (a)). An additional count was added on June 3, 2003, alleging that Eva challenged another person to fight in public (Pen. Code, § 415, subd. (1)). Eva admitted the public fighting allegation and the battery count was dismissed. The court continued Eva on probation and ordered her to serve 10 days in juvenile hall.

On August 7, 2003, an additional petition was filed alleging Eva had feloniously made criminal threats (Pen. Code, § 422) and committed a misdemeanor battery. Eva admitted the battery allegation and the criminal threats allegation was dismissed. Eva was placed in juvenile hall pending her commitment to the Pathways Academy.

On appeal, Eva contends the juvenile court erred in calculating her custody credits. Respondent concedes the error. Both parties believe there is too little information in the record to accurately determine custody credits without remanding the case back to the juvenile court.¹

DISCUSSION

The parties agree the juvenile court erred in calculating the minor's custody credits. Eva was detained a number of times. Several of the notations in petitions and in probation officer notes indicate that she was not in custody or had not been detained. The

¹ Because the only issue on appeal involves calculation of custody credits, we do not recount the facts of Eva's offenses.

first petition, filed on December 27, 2002, indicates Eva had been detained after an incident on September 12, 2002. On June 17, 2003, the juvenile court ordered Eva to spend 10 days in juvenile hall. The probation report for the latest dispositional hearing stated Eva had seven days custody credits.

The parties agree that the probation report fails to account for all of Eva's stays in custody. As noted above, it appears that when some juvenile petitions were filed, Eva was not in custody. If, as Eva's appellate counsel points out, Eva was detained after arrest, she was in custody for at least one day. The probation report fails to account for those days Eva was in custody after being arrested.

Eva was later ordered to spend 10 days in juvenile hall on June 17, 2003. The probation report indicates she only had seven days of custody credit. Nothing in the record, however, expressly indicates that she served only seven days of the 10-day commitment. The probation reports fail to set forth each time Eva was in custody. We cannot, therefore, discern how many days Eva spent in custody prior to her commitment to the Pathways Academy.

Juvenile wards are entitled to precommitment custody credits. (*In re Pedro M.* (2000) 81 Cal.App.4th 550, 556; *In re Randy J.* (1994) 22 Cal.App.4th 1497, 1503-1504.) The failure of a juvenile court to calculate such credits is error. Where there is insufficient information to accurately calculate the proper amount of custody credit, the case must be remanded to the juvenile court for this purpose. (*In re Antwon R.* (2001) 87 Cal.App.4th 348, 353.)

DISPOSITION

The case is remanded to the juvenile court to accurately calculate Eva's total custody credits. In all other respects, the orders of the juvenile court are affirmed.